

# STATE OF NORTH CAROLINA

File No.

24 CVM 17

Montgomery

County

In The General Court Of Justice

☐ District ☐ Superior Court Division

Name And Address Of Plaintiff 1  
Cecil J. Anderson  
3603 Coopers Farm Court  
Greensboro, NC 27406

FILED

2024 JAN 31 P 3:00

Name And Address Of Plaintiff 2

MONTGOMERY CO., C.S.C.

BY mal

GENERAL

## CIVIL ACTION COVER SHEET

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 5(b) of the General Rules of Practice for the Superior and District Courts

VERSUS

Name And Address Of Attorney Or Party, If Not Represented  
(complete for initial appearance or change of address)

Name And Address Of Defendant 1  
Frankie Maness, County Manager  
Montgomery County, North Carolina

Telephone No.

Cellular Telephone No.

Summons Submitted

☐ Yes ☐ No

NC Attorney Bar No.

Attorney Email Address

Name And Address Of Defendant 2  
Montgomery County North Carolina  
102 East Spring Street  
Troy, NC 27371

☐ Initial Appearance in Case ☐ Change of Address

Name Of Firm

Fax No.

Summons Submitted

☐ Yes ☐ No

Counsel For

☐ All Plaintiffs ☐ All Defendants ☐ Only: (list party(ies) represented)

☐ Jury Demanded In Pleading ☐ Complex Litigation ☐ Stipulate to Arbitration

### TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND)
- ☐ Amended Answer/Reply (AMND-Response)
- ☐ Amended Complaint (AMND)
- ☐ Assess Costs (COST)
- ☐ Answer/Reply (ANSW-Response) (see Note)
- ☐ Change Venue (CHVN)
- ☐ Complaint (COMP)
- ☐ Confession Of Judgment (CNFJ)
- ☐ Consent Order (CONS)
- ☐ Consolidate (CNSL)
- ☐ Contempt (CNTP)
- ☐ Continue (CNTN)
- ☐ Compel (CMPL)
- ☐ Counterclaim (CTCL) Assess Court Costs
- ☐ Crossclaim (list on back) (CRSS) Assess Court Costs
- ☐ Dismiss (DISM) Assess Court Costs
- ☐ Exempt/Waive Mediation (EXMD)
- ☐ Extend Statute Of Limitations, Rule 9 (ESOL)
- ☐ Extend Time For Complaint (EXCO)
- ☐ Failure To Join Necessary Party (FJNP)

- ☐ Failure To State A Claim (FASC)
- ☐ Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
- ☐ Improper Venue/Division (IMVN)
- ☐ Including Attorney's Fees (ATTY)
- ☐ Intervene (INTR)
- ☐ Interplead (OTHR)
- ☐ Lack Of Jurisdiction (Person) (LJPN)
- ☐ Lack Of Jurisdiction (Subject Matter) (LJSM)
- ☐ Modification Of Child Support In IV-D Actions (MSUP)
- ☐ Notice Of Dismissal With Or Without Prejudice (VOLD)
- ☐ Petition To Sue As Indigent (OTHR)
- ☐ Rule 12 Motion In Lieu Of Answer (MDLA)
- ☐ Sanctions (SANC)
- ☐ Set Aside (OTHR)
- ☐ Show Cause (SHOW)
- ☐ Transfer (TRFR)
- ☐ Third Party Complaint (list Third Party Defendants on back) (TPCL)
- ☐ Vacate/Modify Judgment (VCMD)
- ☐ Withdraw As Counsel (WDCN)
- ☐ Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must include either a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

(Over)

EXHIBIT

A



# STATE OF NORTH CAROLINA

File No.

24 cvm 17

Montgomery County

In The General Court Of Justice  
☐ District ☐ Superior Court Division

Name And Address Of Plaintiff 1  
 Cecil J. Anderson  
 3603 Coopers Farm Court  
 Greensboro, NC 27406

FILED

2024 JAN 31 P 3:08

## GENERAL CIVIL ACTION COVER SHEET

Name And Address Of Plaintiff 2

MONTGOMERY CO., C.

☒ INITIAL FILING ☐ SUBSEQUENT FILING

BY

Rule 5(b) of the General Rules of Practice for the Superior and District Courts

### VERSUS

Name And Address Of Attorney Or Party, If Not Represented  
 (complete for initial appearance or change of address)

Name And Address Of Defendant 1  
 Frankie Maness, County Manager  
 Montgomery County, North Carolina

Summons Submitted

☐ Yes ☐ No

Telephone No.

Cellular Telephone No.

NC Attorney Bar No.

Attorney Email Address

☐ Initial Appearance in Case ☐ Change of Address

Name Of Firm

Fax No.

Name And Address Of Defendant 2  
 Montgomery County North Carolina  
 102 East Spring Street  
 Troy, NC 27371

Summons Submitted

☐ Yes ☐ No

Counsel For

☐ All Plaintiffs ☐ All Defendants ☐ Only: (list party(ies) represented)

☐ Jury Demanded In Pleading ☐ Complex Litigation ☐ Stipulate to Arbitration

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(Over)



# CLAIMS FOR RELIEF

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Administrative Appeal (ADMA)      | <input type="checkbox"/> Limited Driving Privilege - Out-Of-State Convictions (PLDP) | <input type="checkbox"/> Product Liability (PROD)                 |
| <input type="checkbox"/> Appointment Of Receiver (APRC)    | <input type="checkbox"/> Medical Malpractice (MDML)                                  | <input type="checkbox"/> Real Property (RLPR)                     |
| <input type="checkbox"/> Attachment/Garnishment (ATTC)     | <input type="checkbox"/> Minor Settlement (MSTL)                                     | <input type="checkbox"/> Specific Performance (SPPR)              |
| <input type="checkbox"/> Claim And Delivery (CLMD)         | <input checked="" type="checkbox"/> Money Owed (MNYO)                                | <input type="checkbox"/> Other (specify and list each separately) |
| <input type="checkbox"/> Collection On Account (ACCT)      | <input type="checkbox"/> Negligence - Motor Vehicle (MVNG)                           |   |
| <input type="checkbox"/> Condemnation (CNDM)               | <input type="checkbox"/> Negligence - Other (NEGO)                                   |   |
| <input type="checkbox"/> Contract (CNTR)                   | <input type="checkbox"/> Motor Vehicle Lien G.S. Chapter 44A (MVLN)                  |   |
| <input type="checkbox"/> Discovery Scheduling Order (DSCH) | <input type="checkbox"/> Possession Of Personal Property (POPP)                      |   |
| <input type="checkbox"/> Injunction (INJU)                 |  |   |

Date

Signature Of Attorney/Party

## FEES IN G.S. 7A-308 APPLY

Assert Right Of Access (ARAS)  
Substitution Of Trustee (Judicial Foreclosure) (RSOT)  
Supplemental Procedures (SUPR)

## PRO HAC VICE FEES APPLY

Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No.	<input type="checkbox"/> Additional Plaintiff(s)	<input type="checkbox"/> Third Party Defendant(s)	Summons Submitted
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted



**STATE OF NORTH CAROLINA**

File No.

24CVM000017

MONTGOMERY County

In The General Court Of Justice  
District Court Division - Small Claims

Plaintiff(s)

CECIL J ANDERSON

**MAGISTRATE SUMMONS**☐ **ALIAS AND PLURIES SUMMONS (ASSESS FEE)****VERSUS**

G.S. 1A-1, Rule 4; 7A-217, -232

Defendant(s)

FRANKIE MANESS

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

MONTGOMERY COUNTY NORTH CAROLINA

**TO****TO**

Name And Address Of Defendant 1

FRANKIE MANESS  
102 EAST SPRING STREET

Name And Address Of Defendant 2

MONTGOMERY COUNTY NORTH CAROLINA  
102 EAST SPRING STREET

TROY

NC 27371

TROY

NC 27371

Telephone No. Of Defendant 1

Telephone No. Of Defendant 2

**IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out!**  
**You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!****¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!****¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!****A Small Claim Action Has Been Commenced Against You!**

You are notified to appear before the magistrate at the specified date, time, and location of trial listed below. You will have the opportunity at the trial to defend yourself against the claim stated in the attached complaint.

You may file a written answer, making defense to the claim, in the office of the Clerk of Superior Court at any time before the time set for trial.

If you fail to appear and defend against the proof offered, the magistrate may enter a judgment against you.

Date Of Trial  
03/05/2024Time Of Trial  
1000 ☒ AM ☐ PMLocation Of Court  
206 GLENN RD

Name And Address Of Plaintiff Or Plaintiff's Attorney

CECIL J ANDERSON  
3603 COOPERS FARM COURTDate Issued  
01/31/2024

GREENSBORO

NC 27406

Signature

MELISSA P LIENBY

☐ Deputy CSC☒ Assistant CSC☐ Clerk Of Superior Court

(Over)

24 CVM 17

# COMPLAINT FOR MONEY OWED

G.S. 7A-216, 7A-232

Name And Address Of Plaintiff

Cecil J. Anderson

3603 Coopers Farm Court

Greensboro, NC 27406

County

Telephone No.

336-337-5688

## VERSUS

Name And Address Of Defendant 1

☒ Individual ☐ Corporation

Frankie Maness, County Manager

102 East Spring Street

Troy, NC 27371

County

Telephone No.

910-576-4221

Name And Address Of Defendant 2

☐ Individual ☒ Corporation

Montgomery County North Carolina

102 East Spring Street

Troy, NC 27371

County

Telephone No.

910-576-4221

Name And Address Of Plaintiff's Attorney

Pro se

## STATE OF NORTH CAROLINA

Montgomery

County

In The General Court Of Justice  
District Court Division-Small Claims

1. The defendant is a resident of the county named above.
2. The defendant owes me the amount listed for the following reason:

Principal Amount Owed	\$	10,000.00
Interest Owed (if any)	\$	
Total Amount Owed	\$	10,000.00

(check one below)

☐ On An Account (attach a copy of the account)

Date From Which Interest Due

Interest Rate

☐ For Goods Sold And Delivered Between

Beginning Date

Ending Date

Interest Rate

☐ For Money Lent

Date From Which Interest Due

Interest Rate

☐ On a Promissory Note (attach copy)

Date Of Note

Date From Which Interest Due

Interest Rate

☐ For a Worthless Check (attach a copy of the check)☐ For conversion (describe property)

Other: (specify)

I demand to recover the total amount listed above, plus interest and reimbursement for court costs.

Date

Name Of Plaintiff Or Attorney (Type Or Print)  
Cecil J. Anderson

Signature Of Plaintiff Or Attorney

(Over)



## INSTRUCTIONS TO PLAINTIFF OR DEFENDANT

1. The PLAINTIFF must file a small claim action in the county where at least one of the defendants resides.
2. The PLAINTIFF cannot sue in small claims court for more than \$10,000.00. This amount may be lower, depending on local judicial order. If the amount is lower, it may be any amount between \$5,000.00 and \$10,000.00, as determined by the chief district court judge of the judicial district.
3. The PLAINTIFF must show the complete name and address of the defendant to ensure service on the defendant. If there are two defendants and they reside at different addresses, the plaintiff must include both addresses. The plaintiff must determine if the defendant is a corporation and sue in the complete corporate name. If the business is not a corporation, the plaintiff must determine the owner's name and sue the owner.
4. The PLAINTIFF may serve the defendant(s) by mailing a copy of the summons and complaint by registered or certified mail, return receipt requested, addressed to the party to be served or by paying the costs to have the sheriff serve the summons and complaint. If certified or registered mail is used, the plaintiff must prepare and file a sworn statement with the Clerk of Superior Court proving service by certified mail and must attach to that statement the postal receipt showing that the letter was accepted.
5. The PLAINTIFF must pay advance court costs at the time of filing this Complaint. In the event that judgment is entered in favor of the plaintiff, court costs may be charged against the defendant.
6. The DEFENDANT may file a written answer, making defense to the claim, in the office of the Clerk of Superior Court. This answer should be accompanied by a copy for the plaintiff and be filed no later than the time set for trial. The filing of the answer DOES NOT relieve the defendant of the need to appear before the magistrate to assert the defendant's defense.
7. Whether or not an answer is filed, the PLAINTIFF must appear before the magistrate.
8. The PLAINTIFF or the DEFENDANT may appeal the magistrate's decision in this case. To appeal, notice must be given in open court when the judgment is rendered, or notice may be given in writing to the Clerk of Superior Court within ten (10) days after the judgment is rendered. If notice is given in writing, the appealing party must also serve written notice of appeal on all other parties. The appealing party must PAY to the Clerk of Superior Court the costs of court for appeal within twenty (20) days after the judgment is rendered.
9. This form is supplied in order to expedite the handling of small claims. It is designed to cover the most common claims.
10. **The Clerk or magistrate cannot advise you about your case or assist you in completing this form. If you have any questions, you should consult an attorney.**



# COMPLAINT FOR MONEY OWED

G.S. 7A-216, 7A-232

Name And Address Of Plaintiff

Cecil J. Anderson

3603 Coopers Farm Court

Greensboro, NC 27406

## STATE OF NORTH CAROLINA

Montgomery

County

In The General Court Of Justice  
District Court Division-Small Claims

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(check one below)

County  
GuilfordTelephone No.  
336-337-5688

### VERSUS

Name And Address Of Defendant 1

☒ Individual☐ Corporation

Frankie Maness, County Manager

102 East Spring Street

Troy, NC 27371

☐ On An Account (attach a copy of the account)

Date From Which Interest Due

Interest Rate

☐ For Goods Sold And Delivered Between

Beginning Date

Ending Date

Interest Rate

☐ For Money Lent

Date From Which Interest Due

Interest Rate

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Date Of Note

Date From Which Interest Due

Interest Rate

☐ For a Worthless Check (attach a copy of the check)☐ For conversion (describe property)County  
MontgomeryTelephone No.  
910-576-4221

Name And Address Of Defendant 2

☐ Individual☒ Corporation

Montgomery County North Carolina

102 East Spring Street

Troy, NC 27371

Other: (specify)

County  
MontgomeryTelephone No.  
910-576-4221

Name And Address Of Plaintiff's Attorney

Pro se

I demand to recover the total amount listed above, plus interest and reimbursement for court costs.

Date

Name Of Plaintiff Or Attorney (Type Or Print)

Cecil J. Anderson

Signature Of Plaintiff Or Attorney



(Over)

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6. The DEFENDANT may file a written answer, making defense to the claim, in the office of the Clerk of Superior Court. This answer should be accompanied by a copy for the plaintiff and be filed no later than the time set for trial. The filing of the answer DOES NOT relieve the defendant of the need to appear before the magistrate to assert the defendant's defense.
7. Whether or not an answer is filed, the PLAINTIFF must appear before the magistrate.
8. The PLAINTIFF or the DEFENDANT may appeal the magistrate's decision in this case. To appeal, notice must be given in open court when the judgment is rendered, or notice may be given in writing to the Clerk of Superior Court within ten (10) days after the judgment is rendered. If notice is given in writing, the appealing party must also serve written notice of appeal on all other parties. The appealing party must PAY to the Clerk of Superior Court the costs of court for appeal within twenty (20) days after the judgment is rendered.
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IN THE GENERAL COURT OF JUSTICE

MONTGOMERY COUNTY  
SMALL CLAIMS DIVISION

FILE NUMBER 24 CVM 17

FILED

2024 JAN 31 P 3: 01  
MONTGOMERY CO., C.S.C.  
BY mgel

ATTACHMENT TO COMPLAINT

COMPLAINT

Cecil J. Anderson, Pro se

Vs.

Frankie Maness, County Manager  
Montgomery County, NC in his personal and  
professional capacity.

Complaint

And

Montgomery County, a government entity  
Troy, NC

Case Overview

The case is based on allegations of negligence in failing to maintain the property in a safe manner.

1. The Plaintiff was an invited guest as a citizen and lawfully allowed to use the facility.
2. The accident occurred on May 6, 2023. The location of the accident is 560 Blaine Road, New London, NC 28127.



3. The County of Montgomery owns and operates the site, one of nine, designated as "Convenience Sites," which are made available to local citizens to dispose of house waste, unwanted household items, and recyclables. There is no direct fee charged for using the service, however, the sites are funded by other revenue sources such as landfill fees charged to the public and commercial entities. Note: New London, the town in which the Plaintiff has a residence and in which the Blaine Road Convenience Site is located, Montgomery County is partially located in Stanley County. The Plaintiff verified through a discussion with the Planning and Zoning Board in Troy, North Carolina that the New London addresses used in this complaint are in Montgomery County.
  4. A Notice and Demand was sent to and received by Frankie Maness, who did not respond.
  5. Mr. Maness, one of the defendants, is the Town Manager who oversees most town functions, including the Inspections function. He also exercises discretion of many budget expenditures.
  6. The Defendants are both located in Montgomery County, while the Plaintiff has a residence  
In both Guilford and Montgomery County, which gives the Court jurisdiction over this matter.
- 

The accident giving rise to this claim:

7. On May 6, 2023, I visited the waste facility located at 560 Blaine Road, New London, in Montgomery County. There is one large dumpster intended to let citizens dispose of unwanted household goods. I have not used the facility frequently and have never had the occasion to walk to the edge of the driveway, where the dumpster is located. There is a concrete wall behind and below the concrete wall, and the dumpster is partially below grade with a forty-two inch flap in place to prevent falls or other mishaps.
8. It is not possible to see beyond and below the wall when approaching the dumpster until you are near the edge of the wall. There is no obvious hazard, or safety peril. There is a hole or gap hidden from view that measures eight inches wide, twenty-two feet long, and approximately four feet deep. The dimensions exceed the OSHA standard for safety precautions and is a violation.
9. Further, there are no signs or other warning of any type to caution citizens of the danger. More importantly, there is no barrier to prevent someone from walking off the end of the wall. The Americans with Disability Act (ADA) require barriers in such

circumstances. The preferred barrier to prevent all accidents is the installation of a guardrail. Comparable sites in other counties have barriers in place. For example, there is a convenience site in Davie County (which adjoins Montgomery County), which has a guardrail.

10. During the visit on May 3, 2023, the Plaintiff approached the dumpster to place a large garbage bag into the dumpster. As he was doing so, the Plaintiff saw the hole, turned left to avoid it, when the right foot slipped off the small concrete wall and his left leg fell straight down into the hole up above the knee. Had the Plaintiff not turned away to avoid the hole, his entire upper body would have fallen into the hole causing far more serious injuries.
11. The right leg was caught between the wall and the dumpster. and I could not extract it. I began to move the right knee back and forth and it was slowly coming up. The knee was severely lacerated.
12. Finally, I jerked the knee out and the force of doing so caused me to fall back hard on the cement curb. As a result, my knee was bleeding badly, I suffered a mild concussion, badly bruised my left side and arm, and bent my left thumb backwards. The lot attendant, Rita Fitzgerald, treated the knee and finally stopped the bleeding. I was in a lot of pain over most of my body. I was in shock, or so I believe. As I did not live far away, I wanted to get home and lay down and take some pain medication.
13. Before I could leave, Ms. Fitzgerald told me that she is required to complete an incident report. I initially refused as I simply did not want to be involved. I finally gave her all the information when she expressed fear that she could lose her job if she did not turn in a report.
14. Ms. Fitzgerald also shared that he had been injured in the driveway and turned in a report. According to her, no one took any action to address the cause of her fall.
15. The next morning, I went to an emergency clinic, who sent me to a hospital for extensive x-rays, and subsequently went to an orthopedic surgeon for my thumb, and to my general practitioner for back pain. The left side of my chest was due to "blunt force trauma." I may have bruised a rib that was fractured previously.
16. To minimize the severe pain in my thumb, I had to wear a brace that immobilized the thumb but made the hand unusable. The surgeon scheduled surgery but called it off when my cardiologist would not agree, due to potential blood clots.

17. I am now getting cortisone shots into the bone in the thumb every two to three months, as there are no viable options at this point.
18. For a period of approximately five months, I wore the thumb brace to minimize the pain, but it limited the use of the left hand significantly.
19. The Plaintiff asserts that the County waived any sovereign immunity based on the following facts.
20. They purchased general liability insurance from the State National Insurance Company. (Lyles v. City of Charlotte 344 N.C. 676. 680 (1996).  
  
-Immunity waived only for the insurance policy limits of liability.
21. It appears from financial statements that the County had paid claims from the policy in the approximate amount of \$35,000.00. (Dubrowolska ex rel. v. Dubrowolska v. Wall 138 APP 1, 18-19 (2000)
22. The County collected \$1,910,711 from landfill fees. That amount was taken from the 2021 budget overview, the latest document available, which indicates the county received revenue in excess of the amount expended, which is only one of several considerations regarding waiver of immunity.
23. The Plaintiff is alleging that Montgomery County, by and through its agents, **was negligent per se** based on numerous violations of law, statutes, or policies; specifically, at least one OSHA violation, numerous violations of the ADA, (Title II), violated safety standards implemented by the Board of Commissioners, violated the human health requirements enacted by the N.C. Legislature 130(a)-309.09a, and any other laws, statutes, provisions or requirements that may apply to this matter.<sup>i</sup>
24. The Plaintiff argues that there is also just cause for a premises liability action.
25. Relief requested:

Pain and suffering...3500

Temporary and partial disability for approximately five months..... \$2500.00

Infliction of emotional distress.... \$1500

Disruption of life activities.... \$2500



Total relief requested: \$10,000.

26. I am not claiming any medical expenses, as my two policies paid for them in full.

WHEREFORE, THE Plaintiff demands judgment against Defendants for:

I am asking the court to award judgment against the Defendants in the sum of \$10,000.

I am also asking for reimbursement of my court costs.

For such other, further, and different relief to which the Plaintiff may be entitled.

This the \_\_\_\_\_ day of \_\_\_\_\_.2024.

---

Plaintiff: Cecil June Anderson    Print

Signature:

Address: 3603 Coopers Farm Court

City/state/zip: Greensboro, NC 27406

Telephone: 336-337-5688

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<sup>i</sup> An OSHA violation can be considered as one factor for establishing negligence. See Cowan v. Laughridge Construction Co.